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Sessional Papers (No. 68A.)

A. 1899

CORRESPONDENCE AND PAPERS

IN REFERENCE TO

STANLEY PARK

AND

DEADMAN'S ISLAND

BRITISH COLUMBIA

PRINTED BY ORDER OF PARLIAMENT



OTTAWA

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EXCELLENT MAJESTY

1899

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To an ADDRESS of the HOUSE of COMMONS, dated 1st May, for copies of all Orders in Council respecting Stanley Park and Deadman's Island, Vancouver, B.C., and all correspondence between the different Departments of the Canadian Government and the Imperial military and naval authorities respecting the park, or island, or both. Also for copies of all correspondence respecting the same with the Government of British Columbia, the city of Vancouver, and the park authorities.

Also for all correspondence between the member for Burrard, the Hon. Minister of Militia and Defence and the Department of Militia, the Hon. Minister of the Interior and other members of the Government, respecting the same.

Also for all correspondence between Mr. Ludgate and his representative and any Department of Government respecting Deadman's Island. Also a copy of all applications and correspondence respecting a lease or grant of Deadman's Island. Also a copy of all departmental reports, memoranda or letters on file in the Departments of Justice, Interior, Militia and Defence, respecting the park, Deadman's Island, or the title and disposal of the same; also a copy of all grants or leases of the park or Deadman's Island. Also all reports or information obtained by the different departments before any lease or grant of Deadman's Island was enacted. Also all memorials or correspondence respecting the granting of any lease of Deadman's Island.

R. W. SCOTT,
Secretary of State.

200415

Stanley Park and Deadman's Island.

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Stanley Park and Deadman's Island.

Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 26th February, 1880.

On a memorandum dated 16th February, 1880, from the Honourable the Minister of the Interior, reporting that he is informed that a considerable area of lands, situate at important points along the coast line in the province of British Columbia, is held by the Imperial Government as military and naval reserves, and suggesting for the consideration of your Excellency in Council the expediency of inviting the attention of the Imperial authorities to the fact, and asking should the same not be inconsistent with the views of Her Majesty's government that the lands in question, excepting such as may actually be required for military or naval purposes, may be transferred to the Dominion, to be held and administered in the same manner as the lands of corresponding character in the older provinces formerly transferred by Her Majesty's government to Canada.

The committee submit the foregoing suggestions for your Excellency's approval.

J. O. COTÉ,
Clerk Privy Council.

The Earl of Derby to the Marquis of Lansdowne.

Governor General, the Most Honourable
The Marquis of Lansdowne, G.C.M.G., &c., &c., &c.

DOWNING STREET, 27th March, 1884.

MY LORD,—With reference to your despatch No. 207 of the 13th of July, 1881, and to previous correspondence respecting the proposed surrender to the Canadian Government of certain lands reserved for naval and military purposes in British Columbia, I have the honour to state that the power of Governor Douglas to make reserves in British Columbia appears to have rested on the 2nd clause of his commission, dated the 2nd of September, 1858, directing him to execute his trust according to powers, directions and authorities granted or appointed to him under the Royal Sign Manual and Signet or by Order in Council or by the Queen through one of Her Majesty's principal Secretaries of State; and further, upon despatches from Sir E. B. Lytton, dated the 31st of July and 14th of August, 1858, and giving him instructions as to the marking out of allotments for public purposes and giving him provisional rules for his guidance in selling lands. These papers are contained in a parliamentary paper given to the British Parliament in 1859 entitled "Papers relative to the affairs of British Columbia," printed 18th February, 1859, pp. 3, 45 and 49. And it has always been considered that reserves made by him were valid and became effectual without confirmation by the Secretary of State.

As regards the reserves now in question no formal deed appears to have been made conveying them to the military or naval authorities, and I am advised that they may now in like manner be surrendered without the formality of a regular deed of conveyance.

It appears therefore sufficient to state that Her Majesty's Government are prepared to surrender the military reserves specified in the schedule to the War Office Letter of the 27th of July, 1883, a copy of which is inclosed, and all navy reserves with the exception of those mentioned in the letter from the Admiralty of the 29th ultimo, a copy of which is inclosed.

I request that you will inform me whether the Dominion Government desire to receive any more formal notification of surrender than this despatch, and, if so, that I may also be informed of the nature of the instrument which they would like to receive.

I have, &c.,

DERBY.

War Office to Colonial Office.

WAR OFFICE, 27th July, 1883.

The Under Secretary of State,
Colonial Office.

SIR,—With reference to your letter dated 21st July, 1883, I am directed by the Secretary of State for War to transmit for the information of the Earl of Derby the accompanying "Schedule of the Reserved Lands of British Columbia proposed to be surrendered to the Dominion Government" as therein requested.

I have, &c.,

RALPH THOMPSON.

SCHEDULE of the Reserved Lands of British Columbia proposed to be surrendered to the Dominion Government.

No.	Area in Acres.	Description.
<i>Esquimalt and Victoria District.</i>		
5	About 30	William Head.
6	" 70	Bentick Island.
7	" 80	Sooke Harbour.
8	" 180	Mount Douglas.
9		Chatham Island.
10		Chain Island.
11		Trial Island.
<i>New Westminster District.</i>		
1	About 600	Between north arm and main branch of Fraser River. Inland between Fraser River and Burrard Inlet.
3	" 640	" " " "
4	" 95	On north shore of Port Moody near the centre.
5	" 150	On south shore of Port Moody near the entrance.
6	" 160	On north shore at mouth of Port Moody.
7	" 3,000	On south shore of Burrard Inlet outside 2nd Narrows.
8	" 300	On the south shore of Burrard Inlet near Coal Harbour.
9	" 600	South shore of 1st Narrows.
10	" 800	" English Bay.
11	" 500	Point Grey.
12	" 480	On the north shore of 1st Narrows.
13	" 120	} On each side of the entrance of the north arm of the Fraser River.
and	" 90	
14	" 90	} On each side of the entrance of the north arm of the Fraser River.
15	" 120	
		Inland, south of the main branch of the Fraser River.

Stanley Park and Deadman's Island.

The Admiralty to the Colonial Office.

ADMIRALTY, 29th February, 1884.

The Under Secretary of State for the Colonies.

SIR,—Adverting to my letter of the 14th August last, D.W. No. 2631, I am commanded by the Lords Commissioners of the Admiralty to inform you that they have received from the naval commander in chief on the Pacific station a report on the subject of the surrender of naval reserves in British Columbia, to which your letter of the 21st July last and its enclosure related.

I am now to state, for the information of the Earl of Derby, that my lords are prepared to give up all the reserves belonging to the admiralty in that colony with the exception of those which they occupy in Esquimalt, i.e., the naval hospital and cemetery. The Naval Yard, Thetis Island, Brothers' Island, Albert Head, Cole Island and also the plot of 110 acres in Burrard Inlet marked C in the accompanying plan.

This last mentioned plot, their lordships propose to retain as a site for a possible future naval establishment, or in order to exchange it for a site suitable for the dockyard if it should at any time be decided to remove that establishment from its present position.

I am, &c.,

G. TRYON.

The Earl of Derby to the Governor General.

DOWNING STREET, 27th January, 1885.

Governor General,

The Most Honourable

The Marquis of Lansdowne, G.C.M.G.

MY LORD,—With reference to my despatch No. 119 of the 2nd August last, and to previous correspondence, I have the honour to transmit to you for communication to your Lordship's government, a copy of a letter from the admiralty respecting the reserve in English Bay in British Columbia.

I should be glad to receive the observations of your government in regard to the proposal of the admiralty in respect to the reserve referred to.

I have, &c.,

DERBY.

The Admiralty to the Colonial Office.

ADMIRALTY, 15th January, 1885.

The Under Secretary of State,
Colonial Office.

SIR,—With reference to my letter of the 29th July last, D.W. 2912, on the subject of the reserves in British Columbia, I am commanded by the Lords Commissioners of the Admiralty to acquaint you that at the time they consented to relinquish certain of these reserves, retaining only a plot of 110 acres at Port Moody, they were under the impression that the terminus of the Canadian Pacific Railway would be close to the reserve in question.

2. They have now received a report from the commander in chief on the station stating that the terminus is likely to be at English Bay, and if this is the case the reserve plot at the entrance of Burrard Inlet marked "A" on the plan, which they consented to resign, would be of far greater value to the navy than the one they retained.

3. Under the altered circumstances I am to express their lordships' hope that it is not too late for them to resume possession of the reserve in English Bay, and if so I am to suggest it would perhaps be better that both the reserves referred to should be retained by them until such time as the position of the terminus is definitely settled, when they would be better able to decide which should be retained by them in the interests of Her Majesty's navy.

I am, &c.,

EVAN MacGREGOR.

CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 8th August, 1885.

The Committee of the Privy Council have had under consideration a despatch dated 27th January, 1885, from the Right Honourable the Secretary of State for the colonies with respect to certain admiralty reserves on English Bay, in British Columbia.

The Minister of the Interior, to whom the despatch and enclosure were referred, reports that the exchange suggested in Lord Derby's letter of the 2nd August, 1884, has never been completed. There is therefore no action necessary on the part of the government of Canada upon his lordship's despatch of the 27th January last, as possession of the reserve at English Bay has never been given up by the Imperial authorities, and is not therefore at the disposal of the Dominion authorities.

The Minister of the Interior submits a communication herewith, dated 14th March, 1885, from Mr. W. C. VanHorne, Vice-President of the Canadian Pacific Railway Company, in which it is stated in effect that it will be necessary for the company to place their deep water terminus at English Bay.

That in consequence of this, the company propose to construct docks and other terminal facilities upon a strip of land proposed to be conveyed to them for the purpose by the government of British Columbia; that an extensive tract of level ground for terminal sidings and train yards will be necessary at this point; that the only suitable ground for the purpose is the naval reserve alluded to in the above mentioned despatch of the colonial secretary, and that the company desire to acquire this reserve.

The committee advise that a copy of this minute, if approved, be forwarded to Her Majesty's Principal Secretary of State for the colonies for the favourable consideration of the Lords of the Admiralty.

All which is respectfully submitted for Your Excellency's approval.

Clerk, Privy Council.

THE CANADIAN PACIFIC RAILWAY,
MONTREAL, 14th MARCH, 1885.

HON. SIR D. L. MACPHERSON, K.C.M.G., Minister of the Interior.

SIR,—Finding the harbour at Port Moody utterly inadequate to the requirements of the company at its Pacific terminus, provision has been made for the extension of the line west along the south shore of Burrard Inlet to Coal Harbour and English Bay as approximately shown on the enclosed plan.

Owing to the extreme force of the tide at the first Narrows, (the entrance to Burrard Inlet) access to the inlet for large ocean steamships will be almost impracticable except at low tide and, from investigations recently made, it seems that English Bay must be utilized as the main harbour and that the railway must be extended to run along that bay.

Stanley Park and Deadman's Island.

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The construction of the necessary docks, etc., will involve a very large expenditure, and, to provide for this, the Government of British Columbia proposes to convey to the company the tracts of land coloured red on the enclosed plan.

As extensive track of level ground for terminal sidings and train yards will be necessary and the only ground suitable for that purpose, in the vicinity of English Bay, is on the naval reserve and the strip immediately south of it.

The naval reserve was originally intended to provide timber for spars, etc., but I am informed that all the timber suitable for this purpose has already been cut and that there is no reason now for holding this particular tract for naval or other public purposes.

The company is now in negotiation with the Government of British Columbia for a strip of land adjoining and immediately south of the naval reserve and desires also to acquire the naval reserve itself from the government. Indeed the acquisition of this property by the company is almost essential for the construction of proper facilities for traffic.

The company cannot safely execute the proposed agreement with the province of British Columbia without knowing whether, or not, this property may be secured and they have only until the 23rd of April to decide the matter.

The agent of the Dominion government, the Honourable J. W. Trutch, is now in Ottawa and he is fully acquainted with the situation of the property in question and it was he who made the original reservation.

The naval reserve embraces as we believe about 780 acres, although the Government of British Columbia claims that it should include only 120 acres, but all the evidence we have been able to obtain indicates that the first named figures are substantially correct.

I trust that we may be informed as soon as possible whether or not the property may be secured by the company and upon what terms.

I have the honour to be, sir,

Your obedient servant,

W. C. VAN HORNE,

Vice-President.

The Earl of Derby to the Governor General.

DOWNING STREET, 2nd August, 1884.

Governor General,

The Most Honourable

The Marquis of Lansdowne, G.C.M.G.

MY LORD,—With reference to my despatch No. 39, of the 27th March last, and to previous correspondence respecting the proposed surrender of certain lands reserved for naval and military purposes in British Columbia, I have the honour to transmit to you for communication to Your Lordship's government a copy of a letter from the admiralty proposing a certain exchange of plots of land at Esquimalt.

I request that you will inform me whether your Government agree to this proposal.

I have, &c.,

DERBY.

The Admiralty to Colonial Office.

ADMIRALTY, 29th July, 1884.

The Under Secretary of State,
Colonial Office.

SIR,—With reference to admiralty letter of the 29th February last, D.W. 2789 on the subject of the surrender of naval reserves in British Columbia, I am com-

manded by the Lords Commissioners of the Admiralty to request that you will move the Secretary of State for the colonies to ascertain from the Dominion government whether there would be any objection on their part to transfer to the Admiralty a plot of ground in Constance Cove, Esquimalt Harbour, tinted blue on the accompanying chart, in exchange for the reserves C and D on the plan transmitted with the letter above referred to.

I am, &c.,

EVAN MACGREGOR.

HOUSE OF COMMONS,

OTTAWA, 24th March, 1886.

Sir ADOLPHE CARON,
Minister of Militia,
Ottawa.

SIR,—I inclose herewith a map showing the military reserve at the entrance to Burrard Inlet. It contains 950 acres adjoining the terminal city of Vancouver on the Canadian Pacific Railway. I would respectfully request that you would grant the same to the city reserving the right to use any portion of it for military purposes or on occasion when required even the whole of it. The city to build a carriage road around the reserve and otherwise spend money on it to make it attractive for a park. In my opinion it can be made one of the finest parks in the world and in connection with the proposed establishment of national parks along the line of the Canadian Pacific Railway would be quite an attraction to tourists travelling over our national railway and the above proposed arrangement would not in any way interfere with the right of your department to these lands.

Please give the matter your earnest consideration and advise me of your decision.

I have the honour to be, sir,

Your obedient servant,

A. W. ROSS.

This military reserve piece of ground is the identical spot that Lieut. Col. Holmes, D.A.G., so strongly recommends for the site of our barracks and battery. Would it not be better to suspend action in this regard until we have personally inspected the spot?

FRED. MIDDLETON,
Major General.

DEPARTMENT OF THE INTERIOR,

OTTAWA, 19th April, 1886.

GRANT POWELL, Esq.,
Under Secretary of State,
Ottawa,

SIR,—In a letter received from the Honourable Mr. Trutch, dated the 30th ultimo, he incloses a clipping from the British Columbia Gazette being an advertisement of notification, dated the 11th March, by Mr. Alexander Russell, of his intention to make application within 60 days to the Chief Commissioner of Lands and Works of that province for permission to purchase an island, containing 10 acres, situated near the head of Coal Harbour, Burrard Inlet.

The island in question is included in the preservation for military purposes, 950 acres in extent, established in 1859 on the south side of the First Narrows, Burrard Inlet, and I have therefore to request that you will communicate with the Government of British Columbia calling their attention to the fact this land is so reserved and not subject to sale by that government.

I have the honour to be, sir,

Your obedient servant.

A. M. BURGESS,
Deputy Minister of the Interior.

EXTRACT from a memorandum inclosed in a letter to the Secretary of the Public Works Department, dated 4th May, 1886, respecting government reserves generally in British Columbia.

I have had several interviews lately with the Hon. Mr. Smithe, chief commissioner of lands and works and premier of British Columbia, on the subject of the government reserves generally in this province, the object of arriving at an understanding as to which particular reserves came under the control of the Dominion government upon the union of British Columbia with Canada, or failing this to endeavour to arrange with him, as suggested by Mr. Burbridge, for reference to this question to the arbitrament of some competent tribunal.

I have, however, been entirely unsuccessful on both these points.

Mr. Smithe maintains, as I understand from him, that all the public lands of the province subject under the provisions of the 108th section of the British North America Act to become the property of Canada upon union, were specified in the descriptive schedule and plans thereof prepared at the lands and works office of British Columbia in January, 1872, and forwarded by the Lieutenant Governor to the Secretary of State by dispatch, dated 31st January, 1872.

That there never were in British Columbia any ordinance lands nor any lands set apart for general public purposes in the sense of the 10th section of the third schedule of the British North America Act.*

That from time to time both before and since the union of British Columbia with Canada various tracts of land have been placed by the government of British Columbia under reservation from the operation of the pre-emption and purchase provisions of the land laws, in some cases at the sole instance of that government, and in others upon the suggestion and advice of officers of Her Majesty's naval or military forces, with a view to their possibly being required for fortifications or for the defence of the country.

That these tracts of land have for the most part been retained, and are still held under reservation for the purposes of such requirements and subject to be so applied under the 117th section of the British North America Act upon application by the government of Canada for the use thereof for such purposes and upon due grounds for such requirements being shown to the satisfaction of the government of British Columbia.

But the government of Canada have no rights under the British North America Act and the terms of union to the title of these lands, or to the control of them in any way, further than is provided by the 117th section of that Act, and can have no such right under the provisions of that section until it shall have been specially conceded in any particular case to them by the government of British Columbia, and that no such concession of title or control will be granted except upon application made by the government of Canada, and due grounds of requirement shown for the use of any particular tract of land for purposes of fortification or defence, nor will such concession in any case convey a saleable or transferable title or right of possession and occupancy, for any other than purposes of fortification and defence.

Holding strongly the above views, Mr. Smithe maintains that there is no question to be settled between the province and the Dominion in connection with the position of these reserved lands, and he therefore declines to entertain any idea of referring the matter to any tribunal.

JOSEPH W. TRUTCH,
Dominion Government Agent.

4th May, 1886.

* In a map published by the admiralty, 1880, there are several tracts of land set apart as admiralty reserves, i.e., land set apart for general public purposes.

(Telegram.)

OTTAWA, 20th April, 1886.

J. W. TRUTCH,
Victoria, British Columbia.

I am informed that a sale of lots on the military reserves in British Columbia is proposed to be held in two weeks. You must take measures to stop sale of any property belonging to the reserves which belong to and are under the control of the Federal government.

ADOLPHE P. CARON.

VICTORIA, B.C., 6th May, 1886.

The Hon. Sir ADOLPHE P. CARON, K.C.M.G.,
Minister of Militia,
Ottawa.

SIR,—I duly received your two telegrams of the 20th and 21st ultimo, respectively, directing me to stop sale of any portion of any reserved land in this province under the control of the Federal government, and particularly of an island in Coal Harbour, Burrard Inlet, forming part of the reserve for military purposes on the south shore of the First or Outer Narrows of Burrard Inlet.

These telegrams I acknowledged on the 24th ultimo and subsequently, at the first opportunity, I had an interview with the Hon. Mr. Smithe, Premier and Chief Commissioner of Lands and Works of British Columbia, when I protested as directed by you, against the alienation from the Crown of any portion of these reserves.

Mr. Smithe thereupon assured me that although an application had been made to him for permission to purchase the island in question, the government had not entertained it, and that they had no intention at present of disposing of any of the lands in this province which have been reserved for military purposes.

At that interview I discussed very fully with Mr. Smithe, as I already had frequently done on previous occasions, the various questions connected with the original establishment and present position of government land reserves in British Columbia.

The results of these interviews, as far as the expression of the views on this subject of the government of British Columbia as represented by Mr. Smithe, I have embodied in a memorandum prepared in pursuance of instructions to me from the Honourable the Minister of Public Works to report upon certain points in a letter on this subject to the Department of Public Works from the deputy minister of justice, a copy of which was forwarded to me.

I think it very desirable that the views of the provincial government so expressed, especially as far as they relate to lands in British Columbia reserved for military purposes, should be at once brought to your notice.

I therefore inclose a copy of that part of my memorandum, already forwarded to the Department of Public Works, which relates to this portion of the subject of lands in British Columbia reserved for public purposes.

I have the honour to be, sir,
Your obedient servant,

JOSEPH W. TRUTCH,
Dominion Govt. Agent in British Columbia.

Stanley Park and Deadman's Island.

886.

PETITION.

To His Excellency the Most Honourable Sir Henry Charles Keith, Marquis of Lansdowne, Governor General in Council :

The petition of the mayor and aldermen of the city of Vancouver, in the province of British Columbia, humbly sheweth:—

Whereas an Act has been passed by the legislative assembly of British Columbia, incorporating the city of Vancouver;

And whereas there is within our city limits a portion of land known as "The Dominion Government Military Reserve," near the first Narrows, and is bounded on the west by English Bay, and on the east by Burrard Inlet;

And whereas it is advisable that permission should be given to the mayor and council of the said city of Vancouver, to have control of said reserve, in order that it may be used by the inhabitants of the city of Vancouver as a park.

886.

Your petitioners therefore pray that said reserve should be handed over to the said corporation, to be used by them subject to such restrictions as to your Excellency may seem right. To be and to be held by them as a public park.

M. A. MacLEAN, Mayor,
THOS. F. McGUIGAN, City Clerk,

Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 8th day of June, 1887.

On a report dated 10th May, 1887, from the Minister of Militia and Defence, stating that he has had under consideration a petition of the mayor and alderman of the city of Vancouver, B.C., praying that the Dominion government military reserve near the first Narrows, bounded on the west by English Bay, and on the east by Burrard Inlet, may be handed over to the said corporation for use as a park. The minister reports that he sees no objection to this proposal, provided this corporation keep the park in proper order, and the Dominion government retain the right to resume the property when required at any time. The minister further states that he does not deem it advisable to recommend that this property be transferred to class 2 as not available for military use, as he is of opinion that it will be required for military purposes, but until this he recommends that the corporation have the use of the same as a park, subject to the provisions mentioned. The committee advise that the Minister of Militia and Defence be authorized to take the necessary steps for carrying the same into effect.

JOHN J. McGEE,
Clerk, Privy Council.

DEPARTMENT OF MILITIA AND DEFENCE,

OTTAWA, 12th July, 1887.

His Worship

The Mayor of Vancouver City, B.C.

SIR,—With reference to the petition of the corporation of the city of Vancouver, for a grant of the military reserve at that place for the purpose of a park, I have now the honour, by direction of the Minister of Militia and Defence, to transmit to you the inclosed copy of an Order in Council granting the desired privilege under certain conditions. A copy of the Order in Council has also been forwarded to the Deputy Adjutant General in command of Military District No. 11 for his information and guidance.

I have the honour to be, sir,

Your obedient servant,

C. EUG. PANET, Colonel,
Deputy Minister of Militia and Defence.

MAYOR'S OFFICE,

VANCOUVER, B.C., 27th July, 1887.

COL. C. E. PANET,
Deputy Minister of Militia,
Ottawa.

SIR,—Yours of the 12th instant received inclosing a copy of a report of a committee of the Honourable the Privy Council, granting the city of Vancouver for park purposes the military reserve between English Bay and Burrard Inlet with conditions set forth.

The citizens of Vancouver fully appreciate the kindness of the government in the matter, and request me to state that the conditions mentioned therein will be strictly carried out.

Thanking you for your prompt action.

I have the honour to be, sir,

Your most obedient servant,

M. A. MacLEAN,
Mayor.

VANCOUVER, 18th February, 1888.

D. CHISHOLM, Esq., M.P.,
Ottawa.

DEAR SIR,—I have much pleasure in introducing the bearer, Mr. Cooke, who is the promoter of and principal owner of the Vancouver Iron Works.

He is desirous of getting a lease of Deadman's Island from the government. Any assistance you can give him I shall consider as done to myself. He wants it to build upon and improve. As it is now it is neither useful nor ornamental.

Yours very sincerely,

J. M. LEFEVRE.

OTTAWA, 23th March, 1888.

DR. CHISHOLM, M.P.
Ottawa.

DEAR SIR,—With regard to "Deadman's Island" referred to in this letter by Dr. Lefevre, I have only to say that if practicable I would like to purchase it from the government, or if not, to get a long lease of it. It is utterly useless as it is to any one, and being inside the military reserve and in shoal water never can be of the slightest use for military purposes. If, in Sir A. Caron's department, I think he would not object to letting me have it on condition that if required by the government, at any time, in connection with his department I would, of course, be prepared to vacate.

Sincerely yours,

R. P. COOKE.

VANCOUVER, B.C., 9th March, 1888.

HON. SIR A. P. CARON, K.C.M.G.,
Minister of Militia and Defence,
Ottawa.

SIR,—On the 12th of July, A.D. 1887, a communication was received by the mayor of this city from the department of Militia and Defence, informing him that by an Order in Council, dated 8th June, 1887, permission was given the corporation of the city of Vancouver to use the Dominion government military reserve within the limits of said corporation for a public park.

1899

Stanley Park and Deadman's Island.

1887.

Said order further authorized you to take the necessary steps to carry its provisions into effect, but nothing has since been done in the matter.

What will be the character of the title to said lands given to this city? A lease for a long period, subject to the conditions of the Order in Council will be, I presume, the mode of conveyance.

Where will the necessary document be prepared and if by the department, how soon may it be expected?

It will be difficult for this corporation to deal with persons trespassing on said reserve or to keep it in proper order until they can show their right to same, and I doubt if the Order in Council would suffice.

I have the honour to be, sir,
Your obedient servant,

THOS. F. McGUIGAN.
City Clerk.

Mayor.

1888.

DEPARTMENT OF MILITIA AND DEFENCE,
OTTAWA, 21st March, 1888.

The City Clerk,
Vancouver City, B.C.

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SIR.—I have the honour, by direction of the Minister of Militia and Defence, to acknowledge the receipt of your letter of the 9th instant, inquiring what title will be given to the city of Vancouver, under Order in Council of 8th June, 1887, of the lands which the city is permitted to occupy as a park; and I am to inform you that the matter will be looked into, and that you will be again communicated with at as early a date as practicable.

RE.

I have the honour to be, sir,
Your obedient servant,

1888.

C. EUG. PANET, Colonel.
Deputy Minister of Militia and Defence.

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CITY OF VANCOUVER, 11th October, 1888.

C. EUG. PANET,
Deputy Minister of Militia and Defence,
Ottawa, Ont.

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1888.

SIR.—I have been directed by the city council of Vancouver to communicate with you with a view of ascertaining whether the Department of Militia and Defence has taken any further steps towards granting a title to the city of Vancouver of the militia reserve within her corporate limits.

A communication numbered "Case A 3758" was received from you on the last of March this year intimating that the matter would be looked into at as early a date as practicable.

I have the honour to be, sir,
Your obedient servant,

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THOS. F. McGUIGAN,
City Clerk.

VANCOUVER, B.C., 9th January, 1889.

The Honourable SIR ADOLPHE P. CARON, K.C.M.G.,
Minister of Militia and Defence,
Ottawa, Ont.

SIR,—We have been directed by the council of the city of Vancouver, to forward you the following resolution, passed by that body on Monday the 7th inst.:

"Whereas the corporation of the city of Vancouver has expended upwards of \$30,000 in making roads through the government reserve in this city, now known as Stanley Park.

"And whereas said park is to be used by the corporation only until the Government of Canada require same for military purposes.

"And whereas said park in a state of nature would be impassable for troops or war material without a large expenditure of money, and the roads and drives made by the city being of a substantial character, and permanent kind, will enable such troops and war material to move at once to any point of said park.

"And whereas it is the intention of the city to make other roads and drives through said park, from year to year, and are willing to make same to such points as may be indicated by any military engineer appointed by the government for that purpose.

"Therefore, be it resolved, by the mayor and council of the city of Vancouver, in council assembled, that the government be requested to make a grant on account of the sums already expended by the corporation, and make a yearly grant for the purpose of further improving same from year to year.

"And be it further resolved, that a copy of this resolution, signed by the mayor and the city clerk, with the corporate seal affixed, be forwarded to the Honourable Sir Adolphe P. Caron, K.C.M.G., Minister of Militia and Defence."

We have the honour to be, sir,
Your obedient servant,

D. OPPENHEIMER,
Mayor.
THOS. F. McGUIGAN,
City Clerk.

DEPARTMENT OF MILITIA AND DEFENCE,
OTTAWA, 26th January, 1889.

His Worship
The Mayor of Vancouver City, B.C.

SIR,—I have the honour, by direction of the Minister of Militia and Defence, to inform you that the two propositions made in the letters of yourself and the city clerk of Vancouver, dated respectively 9th March, 1888, and 9th January, 1889, have received due consideration, and have been decided upon as follows:—

1st. With reference to the city clerk's inquiry, what title will be given to the city, of the land which the corporation is permitted to occupy as a park, I am to state that no other document can be furnished than the copy of the Order in Council of 8th June, 1887, officially furnished to you by this department.

2nd. As regards the request of the corporation for a grant on account of sums already expended in improving the property, and for an annual grant for a similar purpose in future, the minister regrets that there are no funds available for any such purpose.

I have the honour to be, sir,
Your obedient servant,
O. EUG. PANET, Colonel,
Deputy Minister of Militia and Defence.

A. 1899

Stanley Park and Deadman's Island.

1899.

(Memorandum.)

With reference to the inquiry made by the Department of Marine and Fisheries concerning the military reserve lands near the city of Vancouver, British Columbia, known as "Stanley Park," with special reference to "Deadman's Island."

The undersigned has the honour to report that there are no plans of this military property in the store branch, but a reference to the admiralty plan No. 922 in the office of the Quarter Master General at Head Quarters, indicates the position of "Deadman's Island" as contiguous to the government reserve, now used by the city of Vancouver and known as "Stanley Park," and is therefore military property.

Reference to Case A. 7770 will show that an application was made to lease or purchase "Deadman's Island," B.C., in behalf of R. P. Cooke, Ottawa, in a letter dated 28th March, 1888. Upon this application the acting D.A.G. of the district and the General Officer Commanding, reported against the lease or sale of this island for any private purpose. "It is quite close to the most suitable barrack site, and at low water easily got at from the mainland."

The General Officer Commanding at the time 23rd April 1888 (General Middleton) reported also that the island in question "might prove to be of immense value when the general defence came to be considered."

In the event of a private company trying to lease the island, as indicated in the letter from the Marine department of the 17th instant, it would be advisable that steps be taken to protect the interests of the government.

Respectfully submitted,

J. MACPHERSON, Lt.-Colonel,
Director of Stores, &c.

Ottawa, 21st April, 1896.

OTTAWA, 7th May, 1896.

From Major-General Commanding to Deputy Minister Militia and Defence.

DEADMAN'S ISLAND, STANLEY PARK, VANCOUVER.

From the enclosed correspondence, and after examination of the plans of the property referred to, I would strongly endorse the conclusion arrived at by Major-General Middleton in his minute of 23rd April, 1888, as to the value of this island in connection with the defence of Vancouver, and am therefore of opinion that no occupation by private parties or business corporations should be permitted.

W. J. GASCOIGNE,
Major-General Commanding Canadian Militia.

(Memorandum.)

From the Major-General Commanding the Militia to the Deputy Minister of Militia and Defence.

OTTAWA, 16th September, 1896.

With reference to Deadman's Island at Vancouver, B.C., I am strongly of opinion that it may and very likely will become of great value in connection with the defences of Vancouver, and therefore I regret I am unable to recommend that the whole or any part of it should be leased to any corporation, or to any private individual.

W. J. GASCOIGNE,
Major-General Commanding Canadian Militia.

Whereas the reserve, being 950 acres, known as Stanley Park, situated to the west of the city, is believed to be vested in the Dominion government.

And whereas by a certain Order in Council dated the 8th of June, 1887, the said reserve was handed over to the corporation of the city of Vancouver for use as a park subject to the right of the Dominion government to resume the property when required at any time and subject to the city keeping the same in proper order.

And whereas the corporation of the city of Vancouver have no powers vested in it further than the right to use the said reserve as a park.

And whereas there are a number of small dwellings of a very undesirable character existing on the foreshore and other parts of the said park harbouring squatters, undesirable characters, such being detrimental to the interests of the public and unsightly.

And whereas there is now no power vested in the corporation to prevent the continuance of the nuisances that exist and usefulness to the public of the park is seriously affected thereby, and in consequence thereof the citizens cannot use the park to the same advantage as they could if such nuisances were repressed, and there always exists a great danger of fire destroying the trees and beauty of the park unless control is vested in the city.

And whereas the city has expended the sum of \$100,000 in making roads and annually improving the park.

And whereas the city annually expends a large sum in improvements therein.

Be it therefore resolved that it is in the interests of the city and the public generally that powers be vested in the city that would enable the corporation to put an end to the nuisances that do now exist, and to prevent the occurrence of them in the future. That in order to place the corporation in such a position that it would be authorized to further improve the park and keep the same more strictly as a park and for the use and benefit of the public generally, a petition be forwarded to the honourable the Minister of Militia and Defence, praying that an Order in Council be passed vesting the said reserve in the corporation to be held in trust as a public park and such deed of trust should confer on the said corporation all the necessary powers to evict trespassers, remove undesirable buildings and prevent nuisances, and all powers that may be deemed necessary to empower the said corporation to keep and preserve the reserve as a park for the city, in so far as it may be consistent with the requirements of the Department of Militia and Defence, and that any land taken for the purposes of the Department of Marine and Fisheries, for lighthouse purposes, be done only by consultation between the Dominion and city authorities.—*Carried.*

JAMES F. GARDEN,

Mayor.

T. F. McGUIGAN

Per W. COWDEROY,

City Clerk.

Dated this 1st day of August, 1898.

CITY HALL, MAYOR'S OFFICE,

VANCOUVER, 15th August, 1898.

G. R. MAXWELL, Esq., M.P.,
City.

DEAR SIR,—I enclose a copy of resolution of the council in reference to Stanley Park, which explains itself. When the Governor General was here he suggested that it be forwarded to him at Ottawa and he would put it in the right channel. We have done so, and would ask you to use your influence also to attain the desired end.

Yours truly,

JAMES F. GARDEN,

Mayor.

1899

Stanley Park and Deadman's Island.

VANCOUVER, B.C., 16th August, 1898.

Honourable Dr. BORDEN,

MY DEAR SIR,—I beg to enclose a resolution passed by our city council re Stanley Park. It gives me very great pleasure to support the same. Our park is one of most beautiful spots in Canada and our people take a great pride in it. We spend a large sum of money every year towards making it attractive, but owing to our helplessness a large number of very undesirable people settle down along the foreshore and we have no power to remove them. In the interests of morality, and this is the interests of the city, I hope you will see your way to grant what is asked for, as it would be a great boon to our people.

With best wishes,

Yours very truly,

GEO. R. MAXWELL.

STANLEY HOUSE, NEW RICHMOND, 25th August, 1898.

The Honourable Dr. BORDEN, &c., &c.

Minister of Militia and Defence,
Ottawa.

DEAR DR. BORDEN,—In transmitting to you officially the accompanying memorial and petition in the form of a resolution which has been forwarded to my care by the city council of Vancouver, B.C., I desire to commend the request which it contains for your favourable consideration.

Having recently visited the park at Vancouver I can testify to the fact that the municipality have been giving much attention to the care and improvement of the resort, including the expenditure of a considerable amount of money in improving the approach to the grounds, which, as of course you are aware, are of a very attractive description.

I remain, dear Dr. Borden,

Very faithfully yours,

ABERDEEN.

CANNING, N.S., 26th August, 1898.

G. R. MAXWELL, Esq., M.P.,
Vancouver, B.C.

DEAR MAXWELL,—I am in receipt of yours of the 16th inst., with inclosures, and have forwarded the papers to Lt.-Col. Macdonald who has charge of that branch of the department. I shall do my best to meet the views of the city council especially as their request is so strongly endorsed by yourself. It occurs to me that perhaps an amendment to the lease might be made which would meet the case.

Yours very truly,

F. W. BORDEN.

CANNING, N.S., 26th August, 1898.

Lt.-Col. D. A. MACDONALD,
Chief Supt. of Stores,
Ottawa, Ont.

DEAR COLONEL,—I inclose papers which speak for themselves. Please look into this matter carefully and see whether powers such as the city desires cannot be conferred by an amendment to the lease. It would seem to me as if the difficulty might be got over in that way.

Yours very truly,

F. W. BORDEN.

DEPARTMENT OF MILITIA AND DEFENCE, CANADA,
STORE BRANCH, OTTAWA, 30th August, 1898.The Honourable Dr. F. W. BORDEN,
Canning, N.S.

Re "STANLEY PARK," VANCOUVER, B.C.

MY DEAR DOCTOR,—The right given to the corporation of Vancouver to transform this property into a public park, was given to it by Order in Council, 10th May, 1887, but no lease was granted nor any authority other than the Order in Council, although asked for from time to time.

While the properties in British Columbia belong to the Canadian government yet they have never been apportioned or classified: namely, those which should go to the Department of the Interior, others claimed by the British Columbia Government, and those which should come under the Department of Militia and Defence. However, at the time this property was asked for, it was considered that it might become a valuable military one and hence the department dealt with it.

The whole matter was managed in the deputy's office, and papers only seen by me, for the first time, to-day.

After looking them over I considered that, in view of the former action of the department, it would be quite within its right to grant a lease to the corporation of Vancouver for twenty-one (21) years, this by Order in Council giving them the control for park purposes, but possession to be resumed if required, and also containing a clause holding the department harmless from any trouble that might arise from dispossessing the squatters.

To make sure that my idea is correct I saw the Deputy Minister of Justice who fully endorses it.

Pending the passing of an Order in Council on your return to Ottawa, Mr. Maxwell and the Mayor of Vancouver might be written to stating the intention of the department.

Faithfully yours,

D. A. MACDONALD.

CANNING, N.S., 3rd September, 1898.

Mr. G. R. MAXWELL, M.P.,
Vancouver, B.C.

MY DEAR MAXWELL,—With reference again to your letter of the 16th ult., I have looked into the matter and find that no lease was ever given by the Dominion government to the city of Vancouver. The authority is simply contained in an Order in Council. I am advised that the department might give a lease for 21 years, renewable, under which the city would have all the power they desire. The government would, of course, reserve the right to take possession, if necessary, for military purposes, and would put in a clause in the lease holding the department harmless from any trouble which might arise from dispossessing the squatters referred to.

If this will satisfy the city authorities I shall be very glad to have it carried out as soon as possible. Will you kindly ascertain and let me know?

Yours very truly,

F. W. BORDEN.

1899

Stanley Park and Deadman's Island.

VANCOUVER, B.C., 20th January, 1899.

The Honourable Dr. BORDEN,
Minister of Militia, Ottawa, Ont.

Sir,—The Department of Militia and Defence are the owners, under the clause of the B. N. A. Act, which gives the Dominion all military reserves existing in a province at the time of the union, and the property known as Stanley Park, in the city of Vancouver.

This park, as you are no doubt aware, is a promontory bounded on the one side by English Bay, which is a small bay in the Gulf of Georgia, and on the other side by Burrard Inlet, the entrance to Burrard Inlet being at the point of this promontory. On the Burrard Inlet side there is a small projection which is an island at high water, called Deadman's Island. This is a part of your reserve. You have, no doubt, maps in your office which will show all this very plainly.

A client of mine, who represents a number of very large Canadian and American capitalists, is desirous of purchasing this island from your government as a site for a large lumber mill. The people of Vancouver are, I understand, very anxious that this mill should be erected in their city. Mr. Ludgate informs me that he has seen the members of the city council and that they all favour this site.

Under these circumstances, would your government sell it for this purpose, and at what price? It seems to me that it could not in any way injure the reserve to part with this small portion; it is really of no value to the reserve, and it would be a great boon to the city of Vancouver to get an immense mill, such as this would be, in their midst.

I have the honour to be, sir,
Your obedient servant,

JOSEPH MARTIN.

OTTAWA, 3rd February, 1899.

Hon. Dr. BORDEN,
Minister of Militia,
Ottawa, Ont.

MY DEAR SIR,—I beg to make application for a lease of Deadman's Island, situated near the harbour of Vancouver, for a term of years as may be agreed upon by you, for which I am willing to pay \$500 per year.

My firm desire the island to build thereon a saw-mill, costing in the neighbourhood of a quarter million dollars, with all the latest improvements. Seeing that between the mill and the woods we will employ about 1,000 men, the granting of my request means a good deal for the city of Vancouver.

Awaiting your favourable answer.

Yours, &c.,

THEO. LUDGATE.

OTTAWA, 3rd February, 1899.

Hon. Dr. BORDEN,

MY DEAR SIR,—I have great pleasure in recommending to your favourable consideration Mr. Ludgate's application. As the island desired is of no use to anybody at present and this company will employ a large number of men, your favourable decision will be of great advantage to the city.

Yours very truly,

GEO. F. MAXWELL.

OFFICE OF THE CHIEF SUPERINTENDENT OF STORES,

OTTAWA, 6th February, 1899.

To the Deputy Minister, Militia and Defence.

DEAR SIR,—In 1888 an application was made to the Department of Militia and Defence to purchase or lease "Deadman's Island" situated in Burrard Inlet opposite to the city of Vancouver, B.C.

A reference was made at the time to the military branch as to whether the island was a military necessity for defensive purposes. The general officer commanding opposed the application upon the ground that it might prove of value for general defence.

An application is again made for the leasing of the island, for the purpose of establishing an industry thereon, at a rental of \$500 per annum, and the lessees would be willing to accept all the necessary restrictions and provisions to be embodied in the lease, for immediate possession by the government at any time, if required for military uses or defensive purposes, and without any compensation for outlaying and improvements, and also to give the right to H. M. men-of-war and Canadian government vessels to make use of all wharfs which may be constructed by the lessees for coaling and watering purposes.

The island is close in shore in shallow water, low and hardly above full tide. It is claimed by the applicants that the improvements they would make will enhance rather than take away from its value (if it has any) for defensive purposes.

As a considerable revenue will be derived by leasing this island, and as the conditions of the proposed lease will ensure its immediate control by the department at any time, the general officer commanding might now in view of these conditions offer no military objection to the granting of the lease asked for.

The island covers an area of five acres.

D. A. MACDONALD, Lt.-Col.,
Chief Superintendent of Stores.

(Memorandum.)

*From the Major General Commanding the Militia to the Deputy Minister,
Department of Militia and Defence.*

OTTAWA, 8th February, 1899.

SIR,—I have the honour to state, with reference to the lease of Deadman's Island, proposed to be concluded, that it was the opinion of Major General Sir Frederick Middleton that this island should not be surrendered, as "it may prove to be of immense value when the general defence comes to be considered." This opinion was recorded on the 23rd April, 1888.

In face of the opinion of this distinguished officer I cannot recommend, without a personal inspection, the surrender of Deadman's Island for the purposes required. It is impossible for me with the materials at my disposal, and with no maps of reference of an adequate kind, to give any military opinion upon this question which could be of value.

Having in view the fact of the increasing importance of Vancouver in the future, and the necessity for its adequate defence, I consider that it would be highly inadvisable to close any lease of the nature indicated until it was made quite clear that the island in question would not be required for some portion of the defence.

It is my intention, with the concurrence of the minister, to visit Vancouver for the purposes of a military inspection in April next. I could then, after a personal investigation on the ground, record my views of the present situation of the defence, which, having in view modern changes, might be modified from that recorded by Sir Frederick Middleton in 1888.

EDW. T. H. HUTTON,
Major General,
Commanding Canadian Militia.

Stanley Park and Deadman's Island.

OTTAWA, 8th February, 1899.

The Senior Naval Officer, Royal Navy,
Esquimalt, B.C.

A proposal has been made to this government for temporary alienation, with power to resume, of Deadman's Island, Vancouver Harbour, for erection of a wharf and buildings of commercial importance and value to the city. This island was originally a part of the military reserve.

This government would esteem it a favour if you would state your opinion as regards the advisability of sanctioning such a lease, in view of this island being required for purposes of defence.

Necessity for prompt decision does not admit of inspection by the Major General commanding our forces.

F. W. BORDEN,
Minister of Militia and Defence.

(Memorandum.)

From the Major General Commanding the Militia to the Hon. the Minister, Department of Militia and Defence.

OTTAWA, 10th February, 1899.

[Pressing.]

SIR,—With reference to my letter of the 8th inst., having reference to Deadman's Island, Vancouver Island, I beg to state that, having received through you the telegram from Admiral Bury Palliser, R. N., commanding at Esquimalt, to the effect as given below, I see no objection to the granting of the lease under the circumstances proposed by you.

ESQUIMALT, B. C., 9th February, 1899.

Minister of Militia and Defence,
Ottawa.

2. "In reply to your telegram, I cannot see that Deadman's Island, Vancouver Harbour, would ever be required for purposes of defence.

"ADMIRAL BURY PALLISER."

3. I would, nevertheless, suggest that it would be advisable to include in the terms of the lease a clause giving the Militia Department power to resume possession at any time in the event of circumstances arising which might necessitate the resumption of the island for possible contingencies in connection with the defence of the Dominion.

I have, &c.,

EDW. T. H. HUTTON,
Major General,
Commanding Canadian Militia.

Copy of a report of a committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 16th February, 1899.

On a memorandum dated 10th February, 1899, from the Minister of Militia and Defence, recommending that authority be given him to lease Deadman's Island, situated in Coal Harbour, Burrard Inlet, British Columbia, to the Vancouver Lumber Company, of Vancouver City, British Columbia, for a term of twenty-five years, at an annual rental of five hundred dollars.

The committee submit the same for Your Excellency's approval.

JOHN J. MCGEE,
Clerk of the Privy Council.

DEPARTMENT OF MILITIA AND DEFENCE,
OTTAWA, 16th February, 1899.

Hon. JOSEPH MARTIN,
Attorney General, Victoria, B.C.

DEAR SIR,—As intimated to you in a telegram I have leased for a term of years the property known as Deadman's Island referred to in your letter of the 20th ultimo to the gentleman named Mr. T. Ludgate. I am glad to know that you approve of the acquisition of the island by Mr. Ludgate.

Yours very truly,

F. W. BORDEN.

CITY OF VANCOUVER,
CITY CLERK'S OFFICE,
VANCOUVER, 21st February, 1899.

The Honourable
The Minister of Militia and Defence, Ottawa, Ont.

SIR,—I have the honour to forward herewith draft lease of Stanley Park drawn in accordance with your letters dated 3rd September, 1898, and shall be obliged if you shall have the same executed and returned at your convenience.

I have the honour to be, sir,
Your obedient servant,

THOS. F. McGUIGAN,
City Clerk.

MAYOR'S OFFICE,
VANCOUVER, 25th February, 1899.

J. McKENZIE, Esq.,
Dominion Land Agent, New Westminster, B.C.

DEAR SIR,—I inclose copy of Order in Council of date 8th June, 1887, under which the city holds possession and has improved the military reserve known as Stanley Park. Also copies of letters from the Minister of Militia to Mr. Maxwell approving of the city's application for a lease.

The reason the city wished a lease was to put us in a better position to deal with squatters and trespassers which we could not do directly under the Order in Council. We always felt that our tenure of the park was perfectly good and the government would not resume possession of any part of it except for military purposes as is stated in the order.

Now it is stated that a lease has been privately granted to a saw-mill company of that portion of the park known as Deadman's Island. The city has occupied this island and improved it by building a bridge connecting it with the main land and opening up a trail through its length. We are advised that legally our claims to the reserve for park purposes is good and that Deadman's Island forms part of it.

By the notes of record in the Department of Land and Works, Victoria, of the survey made in 1863, by Lance Corporal Turner of the Sappers and Miners it is shown that in surveying the military reserve he included the island, and it is only on the premises that it is a portion of the reserve that the Dominion government can lay any claim to it at all. Otherwise it is Crown lands under the jurisdiction of the provincial government and the Dominion authorities have in that case no authority to deal with it at all.

The objection to the lease is not wholly because a saw-mill is to be erected, but because it is a site most admirably adapted for a large dry dock, and which for the purpose of the rapid increase in the shipping of the port must in no distant day be constructed.

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Stanley Park and Deadman's Island.

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We also strongly object to the method in which the lease was secured from the executive of the Dominion government.

The lease was issued without giving us an opportunity to express our views on the matter and the first that we knew of the deal was an announcement in the newspaper that it had been granted.

I send you a copy of the *World* newspaper which was published on the day the news became known and which gives copies of letters received by the council in connection with the matter.

I hope you will report to the authorities the facts of the case. The sum of \$300 per annum, it may be pointed out, is an altogether inadequate annual rent for the valuable rights given by the lease. The $7\frac{1}{2}$ acres at a moderate estimate is worth from \$75,000 to \$100,000.

Yours very truly,

JAMES F. GARDEN,
Mayor.

THE CANADIAN BANK OF COMMERCE,
VANCOUVER, B.C., 27th February, 1899.

THEODORE LUDGATE, Esq.,
727 Hornby St., Vancouver, B.C.

DEAR SIR,—I beg to state that a credit to the extent of \$100,000 has been established in your favour in this bank, to be availed of in the construction of a saw-mill here.

I am directed to intimate also that this credit will be increased to \$200,000 or more, if necessary.

Yours truly,

H. H. MORRIS,
Manager.

VANCOUVER, B.C., 1st March, 1899.

Hon. F. W. BORDEN,
Minister of Militia, Ottawa.

DEAR SIR,—With regard to the lease of the property known as Deadman's Island to the Vancouver Lumber Company; as you are aware there has been a great deal of public discussion in this city as to the course adopted by your department in the matter. One point that has been raised is as to the effect of an Order in Council dated the 8th day of June, 1887, a copy which I inclose. It is contended that the description of the property in this Order in Council includes all the naval reserve, and if so, it would include Deadman's Island. I understand, however, that it was not considered at the time of the passing of the Order in Council by the city that they were to get Deadman's Island, because at that time it was thought that that island belonged to the local government. I would suggest on behalf of the Vancouver Lumber Company that it would be well to rescind the said Order in Council and pass a new one confining same to Stanley Park proper, which I would define as being all the naval reserve excepting Deadman's Island. There was, I understand, no formal lease ever executed in favour of the city. I understand that a deputation is leaving here to-day to interview you with regard to this matter. This will reach you a day later than they do, and I am wiring you to-day to wait to see this letter.

Yours truly,

JOSEPH MARTIN.

DOMINION LANDS OFFICE.

NEW WESTMINSTER, B.C., 3rd March, 1899

Re *Head Office File 503273.*

The Secretary,
Department of the Interior,
Ottawa, Ont.

SIR,—Referring to my letter of the 25th ultimo, No. 23908, in the matter of Deadman's Island application for saw-mill site, I beg to inclose a letter which I have received from Mr. James F. Garden, mayor of the city of Vancouver, together with copy of the *Vancouver World* newspaper of the 21st of February received from Mr. Garden, and containing some other correspondence in the matter to that date.

I understand that a delegation representing some of the interests in Vancouver has already gone to Ottawa to oppose the granting of the lease.

A great deal of newspaper reporting of meetings, etc., has been published, and, if necessary, copies may be secured from the several newspaper offices of Vancouver.

I have the honour to be, sir,

Your obedient servant,

JOHN MCKENZIE,

Agent Dominion Lands.

OTTAWA, 9th March, 1899.

Right Honourable SIR WILFRID LAURIER,
Premier and President of the Privy Council.

SIR,—In reference to the interview held with yourself and other members of the government last Tuesday, relative to the lease of Deadman's Island by the government for saw mill purposes, at your request, the delegates representing the citizens of Vancouver herewith submit a statement of their case:

1. That in 1863 a survey was made of the peninsula now known as Stanley Park, and it was set aside as a military and naval reserve, said reserve being bounded on the west by English Bay and on the east by Burrard Inlet.

2. The survey made of this block of land, the original field notes, tracings and traverse of the inlet, &c., which were produced by the delegates and accompany this statement and marked X, demonstrate that the aforesaid reservation embraces the whole of the said Stanley Park, including that portion known as Deadman's Island, but which may be more properly designated a peninsula.

3. That at the request of the mayor, aldermen and citizens of the city of Vancouver, on the 8th day of June, A.D. 1887, an Order in Council was issued granting to the city of Vancouver the use of the aforesaid reservation for park purposes upon stipulations named in the said Order in Council, and to be held as such by the citizens of Vancouver until such time as the said reservation should be required for military or naval purposes.

See the following letters:—

DEPARTMENT OF MILITIA AND DEFENCE,

OTTAWA, 12th July, 1887.

SIR,—With reference to the petition of the corporation of the city of Vancouver, for a grant of the military reserve at that place for the purpose of a park, I have now the honour by direction of the Minister of Militia and Defence to transmit to you the inclosed copy of an Order in Council, granting the desired privilege under certain conditions. A copy of the Order in Council has also been forwarded to the Deputy Adjutant General in command of Military District No. 11, for his information and guidance.

I have, &c.,

C. E. PANET, Colonel,
Deputy Minister of Militia and Defence.

Stanley Park and Deadman's Island.

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FULL TEXT OF THE ORDER IN COUNCIL.

COPY of a report of a committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 8th June, 1887 :

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On a report dated 10th May, 1887, from the Minister of Militia and Defence, stating that he has had under consideration a petition of the mayor and alderman of the city of Vancouver, B.C., praying that the Dominion government military reserve near the First Narrows, bounded on the west by English Bay, and on the east by Burrard Inlet, may be handed over to the said corporation for use as a park. The minister reports that he sees no objection to this proposal, provided the corporation keeps the park in proper order, and the Dominion government retain a right to resume the property when required at any time. The minister further states that he does not deem it advisable to recommend that this property be transferred to class 2 as not available for military use, as he is of opinion that it will be required for military purposes, and until this, he recommends that the corporation have the use of the same as a park, subject to the provisions mentioned. The committee advises that the Minister of Militia and Defence be authorized to take the necessary steps for carrying the same into effect.

JOHN J. McGEE,
Clerk of the Privy Council.

4. That on the 9th day of March, A.D. 1888, the city communicated with Sir A. P. Caron, Minister of Militia and Defence, asking for information as to the character of the title which would be given to the city, relating to the lands named in the Order in Council, and in response thereto was informed that no other title could be furnished than the said Order in Council and officially furnished to the city council.

See the following letters:—

VANCOUVER, 9th March, 1888.

Hon. Sir A. P. CARON, K.C.M.G.,
Minister of Militia and Defence,
Ottawa.

SIR,—On the 12th July, 1887, a communication was received by the mayor of this city from the Department of Militia and Defence, informing him that by Order in Council, dated 8th June, 1887, permission was given to the corporation of the city of Vancouver, to use the Dominion government military reserve within the limits of the said corporation for a public park.

Said order further notified you to take the necessary steps to carry its provisions into effect, but nothing has since been done in the matter. What will be the character of the title of said lands, given to the city? A lease for a long period, subject to the conditions of the Order in Council will be, I presume, the mode of conveyance. Where will the necessary document be prepared, and if by the department, how soon may it be expected? It will be difficult for the corporation to deal with persons trespassing on said reserve, or to keep it in proper order, until they can show their right to same, and I doubt if an Order in Council would suffice.

I have, &c.,

THOS. F. McGUIGAN,
City Clerk.

DEPARTMENT OF MILITIA AND DEFENCE,
OTTAWA, 26th January, 1889.

SIR,—I have the honour by direction of the Minister of Militia and Defence, to inform you that the two propositions made in the letters of yourself and the city

clerk of Vancouver, dated respectively 9th March, 1888, and 9th January, 1889, have received due consideration, and have been decided upon as follows: (1) With reference to the city clerk's inquiry what title will be given to the city of the lands which the corporation is permitted to occupy as a park, I am to state that no other document can be furnished than the copy of the Order in Council of 8th June, 1887, officially furnished to you by this department. (2) As regards the request of the corporation for a grant on account of sums already expended in improving the property, and for an annual grant for a similar purpose in future, the minister regrets that there are no funds available for any such purpose.

I have, &c.,

C. E. PANET, Colonel,
Deputy Minister of Militia and Defence.

5. That relying upon the Order in Council and correspondence with the government, and in order to comply with stipulations in the Order in Council, the corporation of the city of Vancouver by by-laws raised a considerable sum of money, to be expended in the making of roads, construction of bridges, including a bridge landing on to Deadman's Island, and trails thereon, culverts and paths through other portions of the reserve. The total expenditure incurred in connection with Stanley Park since the Order in Council was passed up to the present time amounts to one hundred thousand dollars (\$100,000). For the present year (1899) the sum of six thousand five hundred dollars (\$6,500) is included in the civic estimates for expenditure on improvements in said park.

6. As showing that the city of Vancouver has always regarded Deadman's Island as a portion of Stanley Park, we herewith submit an extract from the inaugural address, delivered by His Worship Mayor Ophenheimer, on the 5th of January, A.D. 1891, it being his third term in succession of that office—in reviewing the work of the previous year, under the heading of "parks and drives," said:

During the past year a considerable amount of work has been done on some of the city parks.

In Stanley Park the grounds leased to the Brookton Point Athletic Association, have been cleared, levelled and fenced.

A bridge has been built to Deadman's Island and several new trails have been constructed in order to make more accessible and acceptable the beautiful spots in that lovely demesne.

7. The expenditure on the Deadman's Island section of Stanley Park has been greater in proportion to its dimensions than any other portion, excepting the recreation grounds and around the neighbourhood of the Zoo and flower gardens.

8. The request of the city council transmitted in August last through His Excellency the Governor General, the Earl of Aberdeen, and Mr. Maxwell, representative for Burrard district, was not made because the city believed its title to the lands for the use of park purposes to be defective, but that the city might be vested with the power to evict squatters and abate nuisance.

See resolution of city council and letter of Minister of Militia, as follows:—

Whereas the reserve being 950 acres, known as Stanley Park, situated to the west of the city is believed to be vested in the Dominion Government:

And whereas by a certain Order in Council, dated the 8th of June, 1887, the said reserve was handed over to the corporation of the city of Vancouver for use as a park subject to the right of the Dominion government to resume the property when required at any time and subject to the city keeping the same in the proper order.

And whereas the corporation of the city of Vancouver have no powers vested in it further than the right to use the said reserve as a park:

And whereas there are a number of small dwellings of a very undesirable character existing on the foreshore and other parts of the said park, harbouring squatters, undesirable characters such being detrimental to the interests of the public and unsightly;

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And whereas there is now no power vested in the corporation to prevent the continuance of the nuisances that exist and the usefulness to the public of the park is seriously affected thereby and in consequence whereof the citizens cannot use the park to the same advantage as they could were such nuisances repressed, and there always exists a great danger of fire destroying the trees and beauty of the park unless control is vested in the city ;

And whereas the city has expended the sum of \$100,000 in making roads and annually improving the park ;

And whereas the city annually expends a large sum in improvements therein ;

Be it therefore resolved that it is in the interests of the city and the public generally that powers be vested in the city that would enable the corporation to put an end to the nuisances that do now exist and to prevent the occurrence of them in the future. That in order to place the corporation in such a position that it would be authorized to further improve the park and keep the same more strictly as a park and for the use and benefit of the public generally, a petition be forwarded to the Honourable the Minister of Militia and Defence praying that an Order in Council be passed vesting the said reserve in the corporation to be held in trust as a public park and such deed or trust should confer on the said corporation all the necessary powers to evict trespassers, remove undesirable buildings and prevent nuisances and all powers that may be deemed necessary to empower the said corporation to keep and preserve the reserve as a park for the city.

CANNING, N.S., 3rd September, 1898.

MY DEAR MAXWELL,—With reference again to your letter of the 16th ultimo, I have looked over the matter and find that no lease was ever given to the city of Vancouver by the Dominion government. The authority is simply contained in an Order in Council. I am advised that the department might give a lease for twenty-one years, renewable, under which the city would have the power they desire. The government would of course reserve the right to take possession, if necessary, for military purposes, and would put in a clause in the lease holding the department harmless from any trouble which might arise from dispossessing the squatters referred to.

If this will satisfy the city authorities, I shall be very glad to have it carried out as soon as possible. Will you kindly ascertain and let me know.

Yours very truly,

F. W. BORDEN.

9. When part of Stanley Park was required for lighthouse purposes by the Department of Marine and Fisheries such department always recognized the fact that the property is held by the city of Vancouver under the terms of the Order in Council, and that no part thereof could be interfered with except by the consent of the city of Vancouver and the Department of Militia and Defence.

10. We desire specially to direct the attention of the government to the letter of the Department of the Interior to the city clerk, dated 3rd February, 1899, inclosing the reply of said department to an application of Messrs. Davis, Marshall and MacNeill for the purchase on behalf of a client of Deadman's Island and the city's reply thereto.

These are as follows:—

OTTAWA, 3rd February, 1899.

The City Clerk,
 Vancouver, B.C.

SIR,—I am directed to send you herewith a copy of a communication which has been addressed by the Department to Messrs. Davis, Marshall and MacNeill of Vancouver, in reply to an application from that firm to purchase, on behalf of a client, Deadman's Island, situated in Vancouver Harbour. I am to ask that you will be

good enough to submit the application in question to the mayor and corporation of Vancouver, for an expression of their views thereon, and to kindly advise the Department of the result.

I am, &c.,

LYNDWODE PEREIRA.

OTTAWA, 3rd February, 1899.

Messrs. DAVIS, MARSHALL and MACNEILL.

GENTLEMEN,—I am directed to acknowledge your letter of the 13th ult., stating that a client of yours desires to purchase, if possible, Deadman's Island, situated in Vancouver harbour, near Stanley Park, for the purpose of mill-site. In reply, I am to say that it cannot be ascertained from the maps in the department that any such island as that exists in Vancouver harbour, but there is an island which seems to be identical with Deadman's Island just off the shore of Stanley Park. This island, along with the lands surrounding the harbour, at one time formed what is known as the naval reserve, made by the Imperial government and handed over to Canada. As the portion of the point upon which Stanley Park is situated is still the property of the Dominion, and as the island forms a part of this property, it could not well be disposed of, even were the department inclined to grant the application you now make. However, if you will furnish more definite information on the subject, I am to say that the matter will receive further consideration.

Your obedient servant,

LYNDWODE PEREIRA,

Assistant Secretary.

VANCOUVER, 22nd February, 1899.

To the Secretary,
Department of the Interior,
Ottawa.

SIR,—In reply to your communication of the 3rd February, the council of the city has considered the subject matter of the communication and also the copy of a letter written to Messrs. Davis, Marshall and MacNeill by the assistant secretary, dated 3rd February, 1899, and beg to point out that the area of land referred to, known as Deadman's Island, is, as stated in your communication, part of the naval or military reserve and forms part of the property known as Stanley Park, and is at low water absolutely connected and part of the park enjoyed by the public.

That by an Order in Council, dated the 8th day of June, 1887, this property was granted to the corporation of the city of Vancouver for use as a public park. That the city has since that date occupied the said property and spent considerable money in the improvement thereof.

That the said property is now being used and enjoyed by the public of the city as a public park, it being the best and only park available for the public.

That numbers of citizens on Sundays and public holidays enjoy recreation and open air in the park.

That it has always been considered by the city and approved of by various members of the Crown that the said Order in Council by virtue of which the park was handed over to the city was a sufficient and reliable tenure of the lands to be held by the city, and owing to such assurances from time to time so given the public have been satisfied and content in expending moneys for the improvement thereof, and that the use of the park by them would not be interfered with unless it became necessary to do so for military purposes only.

That the park is now the property of the Dominion of Canada as a military reserve.

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That the city of Vancouver holds under the said Order in Council all the rights over the property held by the Dominion of Canada subject only to its resumption for military purposes.

That the property being so held by the city cannot be and should not be dealt with except under the Order in Council, that is, when required for military purposes.

That when part of this property has been used for lighthouse purposes by the Department of Marine and Fisheries such department and the council have always recognized the fact that the property is held by the city under the above Order in Council and that no part of it could be interfered with except by permission of the city and the Department of Militia.

That during such undisturbed occupancy by the city since June of 1887 certain parties built shacks and became trespassers on portions of this property particularly on that portion known as Deadman's Island.

That in the opinion of the council of the city and on the suggestion of His Excellency the then Governor General it was considered desirable that such acts of trespass on the property by unauthorized persons should be stopped and these persons ejected. In consequence thereof the council forwarded in August, 1898, to the Department of Militia and Defence a resolution of the council asking that the said park should be vested in the corporation so that the corporation would be placed in a legal position to take proceedings against trespassers.

That in consequence of such resolution the Honourable the Minister of Militia wrote on the 3rd September, 1898, to the member for Burrard that he approved of a lease being granted and would be happy to see it carried out.

That the council of the said city on receipt of the above communication from the Minister of Militia felt satisfied that a lease would be granted, and expected to receive such a lease.

That a lease has been drawn and forwarded to the Minister of Militia with a request that it be executed.

That as the Minister of Militia agreed to give a lease it was anticipated that one would be forwarded.

That it was never contemplated that any other disposition of the park would be suggested after the correspondence that had passed.

That the council receive the communication from your department with surprise.

That it is of the greatest importance for the welfare and future of the city that this property should be maintained as a public park.

That, for the above reasons and that the interests of the city would be very materially injured by acceding to the request contained in your letter, the council on Monday, the 20th day of February, resolved that the following answer be sent to your communication:—

"That the council is opposed to the granting of the request contained in the letter of the 3rd of February, 1899, and is opposed to the operation of a saw-mill on Deadman's Island."

I remain, sir,

Your obedient servant,

THOS. F. McGUIGAN,
City Clerk.

11. The city has not made use of the island as a cemetery as the following telegram from His Worship Mayor Garden will show:

VANCOUVER, B.C., 8th March, 1899.

JAMES McQUEEN,
Russell House, Ottawa.

City expended three hundred, cutting trail, besides bridge. City has not used island as a cemetery.

JAMES F. GARDEN.

12. In reference to the movement for the building of a dry dock, at the close of 1890 and the beginning of 1891, the following extracts from the by-law submitted to the taxpayers will show that not only no reference was made to the selection of Deadman's Island for the site of the dry dock and arsenal, but the terms of the by-law specified the limits within which the said dry dock and arsenal were to be constructed, and which precluded Deadman's Island.

See copy of extracts from by-law as follows:—

CITY OF VANCOUVER.

By-law relating to a bonus for the construction and maintenance of a graving dock and ship repairing yards for the city of Vancouver:

Section 1 said by-law reads as follows:—

That the said individual, individuals, or body corporate shall by the 30th day of August, 1891, commence the construction of a graving dock and arsenal for the repairing of ships within the limits of the city of Vancouver between Burnaby Avenue and Chilco street. The cost of the construction and equipment of said graving dock and arsenal for the repairs of ships shall amount to the sum of one million of dollars (\$1,000,000).

Advertised and forming a part of said by-law, section 2 is as follows:—

That the said Henry Bell, Perry, Cutbill de Long & Co., or the company by them to be formed, will construct the said graving dock of the following dimensions, that is to say, six hundred (600) feet long, eighty (80) feet wide at the gates, with a depth of water of twenty-eight (28) feet on the sill, and of good substantial stone work in the most workmanlike and skilful manner with all the necessary appliances for docking ships, on the south shore of Burrard Inlet, in the limits of the city of Vancouver, between Boundary Avenue and Chilco Street, and adjacent thereto, will construct an arsenal for the repair of ships, fully equipped with all the most modern and approved appliances for using the same.

Section 3 of the agreement is as follows:—

That the said graving dock and arsenal shall cost, with all the improvements and equipments for successfully working same, the sum of not less than one million (\$1,000,000) dollars.

The foregoing by-law, from which the extracts are quoted, was submitted to and voted upon by the duly qualified taxpayers of the city of Vancouver, on the 22nd day of January, A.D. 1891, and carried by a vote of 353 in favour to 16 against.

13. Regarding the application made to the provincial government in 1895 for a lease of Deadman's Island by promoters of a marine railway company, the corporation of the city of Vancouver took no action to oppose this application, being advised that no such lease could be granted except by the Federal government, and that no portion of the park lands would be leased to any one without the consent of the said corporation and the Department of Militia and Defence.

14. We therefore, in view of the foregoing established facts and documents herewith submitted, respectfully request that the government will be pleased to revoke the lease of Deadman's Island granted to Theodore Ludgate, dated 16th February, 1899.

J. C. McLAGAN,
JAMES McQUEEN,
H. J. SENKLER,
FRED BUSCOMBE,
HARRY COWAN.

Herewith are appended resolutions and letters:—

1. From the Vancouver Board of Trade.
2. From the Art, Historical and Scientific Association.
3. From the harbour master of the port of Vancouver.
4. From the chairman and secretary of the Brockton Point Athletic Club.

Stanley Park and Deadman's Island.

5. From Captain Adair, of H.M.S. Imperieuse, Flagship, to Captain McLeod, harbour master, asking that a certain portion of the harbour be reserved for berths for ships named.

Copy resolution passed at a special general meeting of the Vancouver board of trade, held in Vancouver on the 20th day of February, 1899.

LEASE OF DEADMAN'S ISLAND.

At a general meeting of the Vancouver board of trade, held in the board rooms on Monday, 20th February, 1899, which was largely attended and thoroughly representative in its character, it was resolved that the opinion of this meeting is thoroughly averse to the leasing of Deadman's Island by the Federal government, as a site for a saw-mill or any other purpose.

The island is within the limits of Stanley Park, and the citizens have always regarded it as part of the park in accordance with Order in Council passed by the Federal government some time in 1887; and the locating of a saw-mill on Deadman's Island would, in case of fire, be fraught with extreme danger to the whole park. Further, having made improvements on the island, the citizens feel that with the knowledge of these facts, the claim of the council and citizens to the island as a part of Stanley Park should be recognized.—*Carried.*

A true copy.

WILLIAM T. STEIN,
Secretary.

VANCOUVER, B. C., 28th February, 1899.

To Alderman McQUEEN, City.

SIR,—I beg to inclose a copy of the resolution passed at the monthly meeting of the executive committee of the Art, Historical and Scientific Association, held yesterday afternoon.

While sincerely desirous of promoting the industrial development of the city of Vancouver in every reasonable way, the general committee of the Art Historical and Scientific Association are strongly opposed to the establishment of a saw-mill on Deadman's Island.

Yours sincerely,

H. J. DEFOREST,
Secretary of the Art, Historical and Scientific Association.

VANCOUVER, 1st March, 1899.

J. C. McLAGAN, Esq.,

DEAR SIR,—Yours of 28th ult., received, asking me how a saw-mill on Deadman's Island would affect the harbour of Vancouver. As Coal Harbour is confined to a limited space of anchorage and the safest in this harbour, I am of opinion that it would be dangerous and inconvenient to ships laying at anchor by continual floating booms and rafts, and also the only safe place to anchor small crafts and coasters.

I am yours truly,

MALCOLM McLEOD,
Harbour Master.

VANCOUVER, B. C., 1st March, 1899.

FRED. BUSCOMBE, Esq.,
Vancouver.

DEAR SIR,—As you are going to Ottawa with the deputation of citizens leaving to-day to protest against alienation of any part of Stanley Park for commercial purposes, and more particularly against the proposed lease to Mr. Theodore Ludgate, for a saw-mill site, you will please act at the same time for the Brockton Point Athletic Club, and in its name do everything possible to prevent this action.

Being a member of the committee of the club, you are familiar with its objects and the work it has accomplished, and can forcibly point out to the Minister of Militia the serious objections that exist to the establishment of such an industry within the park limits.

Yours truly,

C. S. SWEENEY, Chairman.
I. S. C. SAUNDERS, Hon. Secy.

DEPARTMENT OF THE INTERIOR,
OTTAWA, 11th March, 1899.

Lieutenant Colonel Pinault,
Deputy Minister of Militia and Defence,
Ottawa.

SIR,—With further reference to the matter of Deadman's Island, I am directed to transfer to the Department of Militia and Defence, the inclosed papers relating to this subject, namely:—

(1).—Letter from Mr. John McKenzie, the agent of this department at New Westminster, dated the 3rd instant, together with the stated inclosures therein, being—

(2).—Letter from Mr. James Garden, mayor of Vancouver, dated 25th February, 1899, and

(3).—A copy of the Vancouver *Workers* newspaper of the 21st ultimo.

I have the honour to be, sir,
Your obedient servant,

FRANK HALL.

DEPARTMENT OF JUSTICE,
OTTAWA, 14th April, 1899.

The Deputy Minister of Militia and Defence,
Ottawa.

SIR,—I have the honour to acknowledge the receipt of your letters of the 24th and 29th ultimo, in which you ask for my opinion upon certain questions with respect to the reserve for military and naval purposes at or in the vicinity of Vancouver, B.C.

As to the first question stated in your letter of the 24th ultimo, namely:—Was the property ever transferred by the Imperial government to British Columbia before confederation? I beg to state that it does not appear from the papers submitted and from the researches made in 1888 by Messrs. Drake, Jackson and Helmsken, the then agents of this department, that there was any actual transfer. The title to the public lands of British Columbia is, and always has been, in the Crown, "but the right to administer and dispose of the (ordinary) Crown lands to settlers, together with all royal and territorial revenues arising therefrom had been transferred to the province before its admission into the federal union." So it is stated in the judgment of the Judicial Committee of the Privy Council in the Precious Metals Case, and, I think, that the Imperial legislation affecting such lands, which

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is referred to in the report of Messrs. Drake, Jackson and Helmcken, must be taken to have recognized and confirmed such a right on the part of the Province.

The lands now in question, however, are not ordinary Crown lands. They were apparently reserved by the Imperial authorities for Imperial purposes, and it may well be doubted whether they were affected by the legislation referred to. In order to come to a decision upon that point, the time and manner of their first reservation and the object of it would require to be considered, and the information before me as to these particulars is not sufficient to enable me to form an opinion. The lands in question were not, so far as appears, transferred to the colony in any other way.

2. For the same reason I am unable to form any confident opinion upon the second question in your letter of the 24th ultimo, namely: Who is the actual owner of this Imperial property, and in virtue of what titles or Acts of Parliament? If the reserve belongs to Canada, it must be under section 108 of "The British North America Act," and item either 9 or 10 of the schedule therein referred to, *i. e.*, either as ordnance property or as lands set apart for general public purposes. It would not, however, be the property of Canada by virtue of that section unless at the time of the union it was the property of the province.

3. As to the first question in your letter of the 29th ultimo, namely, "Is Deadman's Island embraced in the reserve covered by the Order in Council of the 8th June, 1887?" there is no information in the papers sent by you or in Messrs. Drake, Jackson and Helmcken's report or the papers which accompanied it, which would enable me to form an opinion upon this point. In a letter which Mr. Gemmill, acting on behalf of the city of Vancouver, has written to your minister, dated 23rd ultimo, he refers to plans of the reserve which he states have been deposited with the Prime Minister. These I have not seen, and it is possible that they might throw some light upon the question. Mr. Gemmill refers to the lands in question, including Deadman's Island, as having been constituted a reserve for military and naval purposes. In your letter of the 24th ultimo you refer to the property including the island as having been "formerly an Imperial naval reserve," and in the Order in Council of 8th June, 1887, the property handed over to the city as a park is described as the Dominion government military reserve." If it can be shown, as I understand may be the case, that the island was set apart as a naval reserve, that would go a long way towards showing that only the parcel on the mainland was intended to be handed over to the city.

4. As to the second question in that letter, viz.: "Is the lease granted to T. Ludgate by the government legal and valid?" I may say that this question depends to some extent upon the answer to the preceding ones. Assuming, however, that Canada has a good title to these lands, the authority of the Governor in Council would be necessary to the validity of such a lease. It does not appear from the papers whether any such authority was obtained before a lease was executed. I may state further that the Act respecting Ordnance and Admiralty lands has no application to lands in question, that Act dealing only with the lands in the older provinces which are specified in the schedule to the Act. If the government can dispose of them it is only by virtue of the royal prerogative, or under section 3 of chapter 26 of the Statutes of 1894.

Papers returned herewith.

I have the honour to be, sir,
Your obedient servant,

E. L. NEWCOMBE,
Deputy Minister of Justice.

VICTORIA, B.C., 28th May, 1896.

The Deputy Minister of Justice,
Ottawa.*Re* NAVAL AND MILITIA RESERVE, B.C.*Re* DEADMAN'S ISLAND, VANCOUVER.

SIR,—We have the honour to report that on receipt of your instructions of the 20th instant herein we at once communicated with the Honourable the Premier, notifying him of the instructions which we had received from you, and asking whether some arrangement could not be arrived at whereby the lease of Deadman's Island was considered by the Dominion government to be of great value in connection with the defences of the city of Vancouver, and that it was desirable that this matter should be unencumbered with the question of a lease. During the course of the day we ascertained the fact to be that a lease had actually been executed in favour of a company, which refused to accept the same on the grounds that the terms therein inserted were too onerous. The Honourable the Premier notified us in writing that he would be glad to see us at 12 o'clock to-day. Our Mr. Helmcken attended at the hour appointed and had the honour to meet the Executive Council. The matter was discussed, and inasmuch as the company had refused to accept the lease which had been granted in its favour by the provincial government, and as the provincial government could not reasonably refuse to accede to the request of the Dominion government, the executive at once agreed that it would be in the interests of the province that the island should be reserved at once, and that all negotiations between the government and the proposed company should be considered at an end.

We have written to the government asking them to reserve the place at once.

We wired you to-day as follows: "Provincial government has agreed to reserve Deadman's Island, Vancouver, for defensive purposes," which we now beg to confirm.

We have the honour to be, sir,
Your obedient servant,

DRAKE, JACKSON & HELMCKEN.

VICTORIA, B.C., 28th December, 1888.

To the Honourable
The Minister of Justice, Ottawa.

SIR,—With respect to the reserves in British Columbia, we beg to report as follows:—

First, with respect to Vancouver Island. The Hudson Bay Company, by a charter from the Imperial government, dated 13th January, 1849, held the island for the purposes *inter alia* of settlement, with power to make sales of lands, except so much as might be required for public purposes, or for the formation of naval establishments. Under this charter down to 1858, the company dealt with the island lands. In that year by an arrangement between the government and that company, the lands were sold by the colonial surveyor with the understanding that the proceeds were to be accounted for under the charter; and on the 3rd of April, 1867, the Imperial government paid in full settlement of all the company's demands the sum of \$57,500, and by that deed the lands reverted to the Crown as from 1st January, 1862.

A number of reserves have been made, some by the Hudson Bay Company and some by the colonial government. A list of which is set out in Appendix A which is a copy of a return made by the then chief commissioner of lands and works to the house of assembly in the year 1873.

These reserves are mostly still in existence, and on the union of the colonies of Vancouver Island with British Columbia under the Imperial Statute of 6th August, 1866, nothing was enacted with respect to the lands or reserves.

1896.

Secondly, with regard to the colony of British Columbia.

This colony was established as a Crown colony, (see 21 and 22 Vic., cap. 99) and in September, 1858, an Imperial proclamation was issued authorizing the government to provide for the administration of justice and government in British Columbia.

The Governor of British Columbia from time to time set out reserves in British Columbia for public purposes which are also defined in Appendix A.

There is no Act, proclamation or ordinance, which we have been able to discover by which the proprietorship of land on the mainland or island has been transferred to the colonies of British Columbia; but by Imperial Act 28 and 29 Vic., cap. 63, "An Act to remove doubts as to the validity of Colonial Laws," it may be reasonably held that all Colonial Acts relating to land, not disallowed, practically admitted the right of colonial legislatures to deal with the Crown lands.

The British government from time to time passed ordinances relating to the Crown lands of the provinces, but nowhere is there any reference to the reserves which had been made while the colonies were Crown colonies. A list of these ordinances is appended.

When British Columbia was admitted into the union, 16th May, 1871, under section 10 of the terms of the union, the British North America Act of 1867 was made applicable to British Columbia in the like way and to the same extent as the said Act applied to other provinces, and as if British Columbia had been one of the provinces originally united by the said Act.

By section 109 of the said Act all lands, etc., belonging to the several provinces should belong to the several provinces subject to any trusts existing in respect thereof and to any interest other than that of the province in the same.

And by section 108 the public works and property of each province enumerated in the third schedule should be the property of Canada.

To us it appears questionable whether the province acquired under the British North America Act on confederation, title to any land, the 109th section having reference only to lands belonging to and not those situated in the province, and if it did, our view of the reserves is this: that all reserves for public purposes made while the colonies were under the Crown did not belong to the province on confederation. They fall into the category of lands in respect of which an interest other than that of the province existed therein.

What strengthens this contention is that under the 3rd schedule of the British North America Act, clause 10, lands set apart for general public purposes are handed over to the Dominion. This position, we understand is repudiated by the government of this province, and the ground taken is that the words must be treated as having reference to the preceding terms, i.e., armouries, drill sheds, military clothing and munitions of war, and as British Columbia had no armouries, drill sheds, &c., the government claim that no reserves passed to the Dominion. This is a proposition which we need not now discuss further than referring to it as apparently being the chief grounds of the contention of the province, adverse to the Dominion claim.

We may further point out that during the Crown colony times the Imperial government made charts of the waters of Vancouver Island and British Columbia, and the officers engaged in such employment marked off various places as government reserves, which reserves appear on the charts, and are marked in the appendix A as permanent reserves. As the lands were Crown lands at the time of the reservations it is submitted that these reserves were lawfully made without any special reference to the local government.

In referring to the various Acts, proclamations and Orders in Council relating to these colonies, a list of which for reference we send, we would draw attention to the Act 1 William 4th, cap. 25, "An Act for the support of His Majesty's Household, and of the honour and dignity of the Crown of the United Kingdom." This Act purported to deal with the revenues of the Crown, including the proceeds of the Crown lands sold. The Act 15 and 16 Vic. 39:

"An Act to remove doubts as to the lands and casual revenues of the Crown in the colonies and foreign possessions," whereby it was enacted that the Act of 1

William A. cap. 25, did not apply to lands in the colonies, and that the colonies were at liberty to appropriate the revenues for colonial purposes; and also to the Act 3 and 4 Vic., cap. 78, relating to clergy reserves in Canada, and the Act 16 and 17 Vic., cap. 21: "An Act to authorize the Legislature of the Province of Canada to make provisions concerning the clergy reserves in that province and the proceeds thereof." These Acts taken together show that it required Imperial legislation to deal with colony lands, and such lands could only be dealt with by the colonies as far as they were authorized by Imperial legislative enactment, and any lands not so dealt with remain in the absolute possession of the Crown, and still belong to the Crown and not to the province.

It is to be remarked that the list of province reserves made out by the then Chief Commissioner of Lands and Works in 1873 is made out from the records of the Land Office; and there appears to be no special order by the Governor, or proclamation setting the lands apart as reserves; they are simply entered in the Land Office book and memoranda as government reserves.

We submit above for your consideration.

And we have the honour to be, &c.,

DRAKE, JACKSON & HELMCKER.

LANDS AND WORKS DEPARTMENT,

VICTORIA, 22nd April, 1899.

The Hon. F. W. BORDEN,
Minister of Militia and Defence,
Ottawa.

SIR,—I notice in the reports in the newspapers it is stated that you have decided the dispute over the lease of Deadman's Island, in Burrard Inlet, on the ground that the island was a "naval" reserve while the adjacent portion of the mainland (now known as Stanley Park) was a "military" reserve,

Might I ask you to be good enough to give me the data on which this decision, reported to have been given by you, is based?

The agitation which has been aroused over the matter, has caused me to make some researches among the papers in this department (which is the one in which the documents relating to the matter would be found, if anywhere) and the result of the investigation is such as to lead me to ask you to afford this government the information which I have asked.

I have the honour to be, sir,

Your obedient servant,

F. CARTER COTTON,

Chief Commissioner of Lands and Works.

LANDS AND WORKS DEPARTMENT,

VICTORIA, 2nd May, 1899.

Hon. F. W. BORDEN,
Minister of Militia, Ottawa.

SIR,—Since I had the honour to address you on the 22nd ultimo, asking you to be good enough to furnish me with the data on which your decision was based in regard to the so-called reserves on Burrard Inlet, comprised in what are known as Stanley Park and Deadman's Island, I have still further investigated the question of the ownership of these tracts.

From the documents and records in this department, supplemented by the information afforded by officials and others who were personally engaged in the government service at the time when the transactions connected with the reservations of these lands were effected, I have reached the conclusion that the tracts of

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Stanley Park and Deadman's Island.

land, known as Stanley Park and Deadman's Island are the property of the Crown as represented by this provincial government.

As matters connected with the controversy between the corporation of Vancouver and Mr. Theodore Ludgate over the lease granted by your department to the latter have assumed a serious aspect, and any further delay on the part of this government in asserting what it considers to be its rights of ownership might be prejudicial to the interests of others as well as to those of the province, I beg to inform you that as Chief Commissioner of Lands and Works I have formally taken possession of Deadman's Island on behalf of this government and have instructed my officials to permit no interference with or trespass on the property by any one.

I have the honour to be, sir,

Your obedient servant,

F. CARTER COTTON,

Chief Commissioner of Lands and Works.

(Telegrams.)

VICTORIA, B. C., 5th May, 1899.

Hon. F. W. BORDEN,
Minister of Militia,
Ottawa.

Provincial government satisfied Stanley Park including Deadman's Island belongs to them. Will Dominion government relinquish their claim in our favour?

JOS. MARTIN.

OTTAWA, 5th May, 1899.

Hon. JOSEPH MARTIN,
Attorney General,
Victoria, B. C.

Impossible to reply until grounds upon which you base your opinion are furnished to this government.

F. W. BORDEN.

DEPARTMENT OF MILITIA AND DEFENCE,

OTTAWA, 12th May, 1899.

Hon. F. CARTER COTTON,
Chief Commissioner of Lands and Works,
Victoria, B. C.

SIR,—In reply to your letters of the 22nd ultimo, and 2nd instant, addressed to the Honourable the Minister, I hardly consider it necessary to tell you that all naval and military reserves are now the property of the Dominion of Canada; Stanley Park and Deadman's Island are without the slightest doubt military and naval reserves, and as such are Dominion property.

The Dominion government has been in peaceable possession of that reserve since a great number of years. In 1887, it exercised its rights of ownership in passing an Order in Council, granting to the city of Vancouver permission to use a part of this property for park purposes. This possession has been undisputed for many years before 1887. I am at a loss to understand how you can now claim to be the proprietor and take possession of the same, on behalf of your government, without any legal proceedings.

The Dominion government is the duly recognized proprietor, and it intends to remain in possession and maintain its rights as such.

It might perhaps lead to more speedy and friendly conclusions if you would be good enough to advise us as to the nature of titles under which you lay claim to the property in question.

Meanwhile I think it right to inform you that it is the intention of the Dominion government to vindicate its rights in the premises, and to remain in possession until decided to the contrary by competent authority or by mutual consent.

I feel disposed to believe that everything can be settled amicably between the two governments and without any friction whatever.

I have the honour to be, sir,
Your obedient servant,

L. F. PINAULT, Lt.-Col.,
Deputy Minister of Militia and Defence.

DEPARTMENT OF MILITIA AND DEFENCE,

OTTAWA, 29th May, 1899.

The Honourable
The Minister of Militia and Defence,
Ottawa.

The following statement is taken from the journal of the legislative assembly of British Columbia, December, 1872, to February, 1873 :—

"Government reserves: South of first Narrows, Burrard Inlet kept for military purpose, 950 acres, commanding entrance to Burrard Inlet."

There are other papers and correspondence with the admiralty, but they refer to naval reserves. Stanley Park site and Deadman's Island being military reserves are not mentioned therein.

L. F. PINAULT, Lt.-Col.,
Deputy Minister of Militia and Defence.

DEPARTMENT OF MILITIA AND DEFENCE,

OTTAWA, 15th April, 1899.

THOS. F. MCGUIGAN, Esq., City Clerk,
Vancouver, B.C.

SIR,—Having reference to the claim made by the corporation of Vancouver to Deadman's Island as part of Stanley Park, and the exercising by the above corporation of jurisdiction over it,—

I have the honour to inform your corporation, through you, that Deadman's Island has never been considered by this department as in any way forming a portion of the military reserve granted to your corporation by Order in Council in 1887. On the contrary it has always been held as a separate reserve, subject to such disposition as the department might see fit to make of it.

I have further the honour to inform you, that this department has granted a lease of this island to the Vancouver Lumber Company, of the city of Vancouver, said company to have, by virtue of its lease, full control of it for the purposes for which the lease was granted.

I have the honour to be, sir,
Your obedient servant,

L. F. PINAULT, Lt.-Col.
Deputy Minister of Militia and Defence.

THIS INDENTURE, made in duplicate the fourteenth day of February, in the year of our Lord one thousand eight hundred and ninety-nine, in pursuance of the Act respecting short forms of leases, between Her Majesty Queen Victoria, acting through the Honourable the Minister of Militia and Defence, the Honourable Frederick William Borden, of the city of Ottawa, in the province of Ontario and Dominion of Canada, of the first part, and the Vancouver Lumber Company, of the city of Vancouver, in the province of British Columbia and Dominion of Canada, of the second part.

Stanley Park and Deadman's Island.

Witnesseth, that in consideration of the rents, covenants, and agreements hereinafter reserved and contained on the part of the said party of the second part, his executors, administrators or assigns to be paid, observed and performed, he, the said party of the first part, hath demised and leased, and by these presents doth demise and lease unto the said party of the second part, his executors, administrators, and assigns, all that certain Island known as "Deadman's Island," situated in Coal Harbour, in Burrard Inlet, near the city of Vancouver, in the province of British Columbia and Dominion of Canada, to be used as a lumbering location, with the right of erecting thereon a lumber plant and all such appliances as may be necessary for carrying on a general lumber business, including wharfs, etc. To have and to hold the said demised premises for and during the term of twenty-five years (renewable) to be computed from the first day of March, one thousand eight hundred and ninety-nine and from thenceforth next ensuing, and fully to be complete and ended at the expiry of said term, or until determined as hereinafter mentioned, yielding and paying therefor, yearly, and every year during the said term, unto the party of the first part, or his successors in office, the sum of five hundred (\$500) dollars current money of the Dominion of Canada, to be payable on the following days and times, that is to say, half-yearly, in each and every year during the continuance of the said term, without any deduction, defalcation, or abatement whatsoever, the first of such payments to become due and be made on the first day of September next, 1899.

And the said lessee covenants with the said lessor to pay rent and to pay taxes, and to repair and to keep up fences; and that the said lessor may enter and view state of repair; and that the said lessee will repair according to notice, and will not carry on any business that shall be deemed a nuisance on the said premises; and will not assign or sub-let the said leased premises, or any part thereof, without leave in writing from the party of the first part. The said lessees to have the right to cut down and remove such timber as may be necessary to provide space for the erection of all buildings in connection with their industry. Her Majesty's Men of War and Canadian Government vessels to have the right to use all wharfs constructed by the said lessees for coaling and watering purposes. And that he will leave the premises in good repair; proviso for re-entry by the said party of the first part, on non-payment of rent, or non-performance of covenant. The said party of the first part covenants with the said party of the second part for quiet enjoyment.

Provided always, and it is hereby agreed that this demise may be determined, by either party giving to the other a notice thereof in writing _____ months before the expiration of the first or any subsequent _____, or the said party of the first part may determine this demise at any time, by a demand of possession of the said leased premises, or any part thereof, if required for military or defensive purposes, and the said lessees to have no claim for compensation for buildings erected or improvements made thereon.

In witness thereof, the said parties have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered,
by the party of the first part in presence
of the undersigned witness,

D. A. MACDONALD, Lt.-Col.

F. W. BORDEN,
Minister of Militia and Defence.

Signed, sealed and delivered,
by the party of the second part in presence
of the undersigned witness,

F. E. KNIGHT.

THEO. LUDGATE, for
The Vancouver Lumber Co.

LANDS AND WORKS DEPARTMENT,
VICTORIA, 23rd May, 1899.

Lieut.-Colonel L. F. PINAULT,
Deputy Minister of Militia and Defence
Ottawa, Ont.

SIR,—I have the honour to acknowledge the receipt of your letter of the 12th instant.

In reply to the remarks therein in reference to the claim that Stanley Park and Deadman's Island are the property of the Dominion, I beg to state that there is nothing in the records of this department which would show that such is the case. On the contrary there is evidence that those tracts belong to the province.

I have every confidence that upon investigation your government will acknowledge the correctness of the position assumed by this government, a position I may say which has been held by my predecessors in this department for many years.

This government will be pleased to afford your government any information on the subject which it may have, and I would repeat what I said in my letters of the 22nd ultimo and 2nd instant to the Honourable the Minister of Militia, that it will facilitate the settlement of the matter if you will forward me details of the facts on which the claim of the Dominion is based.

I sincerely reciprocate your expression that everything can be settled amicably between the two governments and without any friction.

I have the honour to be, &c.,

F. CARTER COTTON.
Chief Commissioner of Lands and Works.